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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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Kevin James O'Mara,

Plaintiff,

v.

FNU Platt,

Defendant.

MEMORANDUM DECISION AND ORDER  
ADOPTING REPORT &  
RECOMMENDATION

Case No. 2:13-cv-118 DN

District Judge David Nuffer

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Before the Court is the Report and Recommendation issued on July 12, 2013<sup>1</sup> by United States Magistrate Judge Brooke Wells, recommending that this Court dismiss Plaintiff's complaint pursuant to [Fed. R. Civ. P. 4\(m\)](#).<sup>2</sup>

The parties were notified of their right to file objections to the Report and Recommendation within 14 days after receiving it. On July 16, 2013, the Plaintiff filed an Affidavit<sup>3</sup> in response to the Report and Recommendation, wherein he agreed to dismissal of the case, stating in relevant part:

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<sup>1</sup> Docket no. [6](#).

<sup>2</sup> [Fed. R. Civ. P. 4\(m\)](#) provides in relevant part: "If a defendant is not served within 120 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff — must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period."

<sup>3</sup> Docket no. [7](#).

The Plaintiff feels that a dismissal of the case at this juncture by The Honorable Brooke C. Wells be the appropriate course of action. However, once the Plaintiff has completed all discourse with the attorney mentioned prior, the Plaintiff will be fully prepared to continue on with a fully compliant civil case. It is not the Plaintiff's intention to keep refiling the case while seemingly not following the court rules, and to waste the time and money of the Utah court system. The next refile, should it occur at whatever time period in the near future, will be backed by full compliance of the civil case matters and rules, including the notification of all defendants and legal parties.

Also, due to the compliance issue stated earlier, the Plaintiff would prefer to refile the case rather than to ask for any more extensions of time. This will ensure that the case has progressed without any ambiguity of compliance or error. The Plaintiff wishes for this case to progress entirely within the rules of the court at every stage from beginning to end.

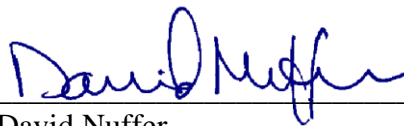
Pursuant to [28 U.S.C. § 636\(b\)](#) and [Fed. R. Civ. P. 72\(b\)\(3\)](#), the Court has reviewed de novo all materials, including the record that was before the magistrate judge, the reasoning set forth in the Report and Recommendation, and the Affidavit filed by the Plaintiff in response to the Report and Recommendation in which he stipulates to dismissal of the case.

Based on the Plaintiff's stipulation to dismissal, and the reasoning and conclusion of the magistrate judge,

IT IS HEREBY ORDERED that the Report and Recommendation (docket no. [6](#)) is ADOPTED in its entirety. Plaintiff's complaint is dismissed without prejudice.

Signed July 22, 2013.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge